



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Barco Industries, Inc.

File: B-232304

Date: November 1, 1988

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### DIGEST

Protest that a solicitation requirement for 100 percent in-process inspection testing of hammer heads exceeds the contracting agency's minimum needs is denied where the record shows that the testing requirement is necessary to minimize safety risks to hammer users.

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### DECISION

Barco Industries, Inc., protests the requirement for crack detection testing in solicitation No. FCEN-FW-A8116-S, issued by the General Services Administration (GSA) for hammers. Barco contends that the testing method exceeds GSA's minimum needs. We deny the protest.

The solicitation requires that all hammer heads be 100 percent in-process inspected after heat treating by either a wet magnetic particle inspection test or an ultrasonic detection test. The protester alleges that 100 percent in-process inspection testing is unnecessary for assurance of crack-free hammers because problems relating to cracked heads can be detected by sample techniques if the sampling is properly performed and consistently applied. The protester alleges that the testing is unreasonably burdensome because it will require hiring additional personnel who will have to be trained and certified to operate the inspection machinery.

GSA contends that the 100 percent in-process testing requirement is necessary for safety reasons because a crack in a hammer head can result in fragmentation of the head thereby creating a safety risk for the user. GSA cites reports from the Consumer Product Safety Commission (CPSC) establishing the occurrence of both fatalities and head and eye injuries due to the fracturing of hammer heads during use.

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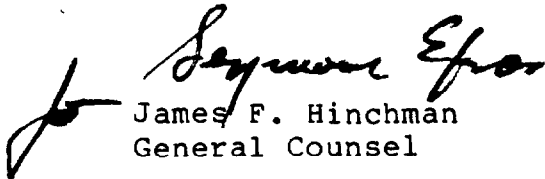
According to GSA, cracks in hammer heads occur during the forging or heat treating stages of the production process. GSA's engineering branch reviewed different methods of testing relating to crack detection and determined that 100 percent in-process magnetic particle testing or ultrasonic detection is the most effective method to detect defects in hammer heads. GSA further states that the use of sample techniques when compared to other testing methods, contrary to the protester's assertion, is ineffective and subject to a significant margin of error because defects in hammer heads do not necessarily occur in a uniform manner within a particular lot. In addition, GSA states that major companies in the steel and railroad industries also require 100 percent in-process testing. Finally, with regard to the effect of the requirement on the field of competition, GSA states that it surveyed the market and identified five forged hammer head manufacturers that perform 100 percent in-process testing.

A contracting agency has the primary responsibility for determining its minimum needs and the best method of accommodating those needs. PTI Services, Inc., B-225712, May 1, 1987, 87-1 CPD ¶ 459. When a protester challenges a solicitation requirement, the procuring agency must establish prima facie support for its contention that the requirement is essential to meet the agency's minimum needs. Once the agency demonstrates prima facie support, the burden is on the protester to show that the requirement is clearly unreasonable. Marine Transport Lines, Inc., B-224480.5, July 27, 1987, 87-2 CPD ¶ 91.

Here, the record establishes that the requirement for 100 percent in-process testing relates to human safety. In this regard, as noted above, GSA provided evidence from the CPSC establishing that numerous injuries have occurred due to the fracturing of cracked hammer heads. The fact that the testing requirement may result in a higher contract price does not demonstrate that the requirement is unreasonable. On the contrary, where a solicitation requirement relates to human safety, an agency has the discretion to set its minimum needs so as to achieve not just reasonable results, but the highest possible reliability and effectiveness. See American Airlines Training Corp., B-217421, Sept. 30, 1985, 85-2 CPD ¶ 365. In addition, the record shows that private companies which are major manufacturers or consumers of steel have adopted 100 percent in-process testing, further supporting the reasonableness of the requirement. As a result, we find that GSA has established that the 100 percent in-process testing requirement is necessary to meet its needs. Other than reiterating its initial contention that sample testing

is adequate, the protester has not responded to GSA's rationale for requiring 100 percent in-process testing. Accordingly we see no basis to object to the requirement. PTI Services, Inc., B-225712, supra.

The protest is denied.

  
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General Counsel